

CRM-A-1238 of 2019

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-1238 of 2019
Date of decision : April 03, 2024

Ashok Kumar & SonsApplicant
VERSUS
IVY Industries and anotherRespondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Abhimanyu Kalsy, Advocate, for the applicant

KULDEEP TIWARI,J. (ORAL)

1. The instant application under Section 378(4) of the Cr.P.C., seeking grant of leave to appeal, has been filed by the present applicant against the judgment of acquittal dated 2.4.2019, passed by the learned Judicial Magistrate Ist Class, Ludhiana, whereby, the respondents have been acquitted of the charges framed against them.
2. The respondents herein have been summoned to face trial under Section 138 of Negotiable Instruments Act, 1881, by the learned trial court. The allegations which are recorded in the impugned verdict of acquittal against the respondents are read as under:-

“Accused No. 2 on behalf of the accused no. 1 remained in dealing terms with the complainant earlier. The accused no. 2 has pleaded to the complainant that he is in the need of Rs 5 lakh for his business needs and on his request complainant paid Rs 5 lakh to the accused

no. 2 through RTGS, which was deposited in the bank account of the accused. In order to discharge his legal liability, the accused no. 2 on behalf of accused no. 1 have issued one cheque bearing no. 879177 dated 30.10.2014 for Rs 5 lakh drawn on SBI Branch (04122), SP, COMM BR, FCPT, Phase-V, Focal Point, Ludhiana. The complainant presented the said cheque, but the said cheque was dishonoured with the remarks 'Drawer's Signature differs' vide cheque return memo dated 9.12.2014. Thereafter, the complainant got issued notice and requested to make the payment within 15 days. The accused has not made the payment of cheque amount, hence the instant complaint."

3. The complainant has stepped into witness box as CW1 and except him, no other witness was examined. The learned trial court after examining the oral testimony as well as documentary evidence, as produced by the complainant, concluded that the applicant has failed to prove any legal liability in which cheque in question was issued..

4. The learned counsel for the applicant, has tried to throw a challenge to the impugned verdict, but has failed to point out any infirmity or illegality in it.

5. Ordinarily, the order of acquittal will not be interfered with, merely because an other view is possible. Upon passing the order of acquittal, presumption of innocence in favour of the accused gets reinforced and strengthened, as laid down by Hon'ble Supreme Court in ***Harijana Thirupala vs. Public Prosecutor, High Court of A.P., (2002) 6 SCC 470.***

6. Therefore, this Court does not find any ground to interfere with the order of acquittal. In sequel, the application for leave to appeal is hereby **dismissed**, it being bereft of merit, and, the impugned judgment of acquittal, rendered by the learned Judicial Magistrate Ist Class, Ludhiana is hereby **upheld**.

April 03, 2024
'tiwana'

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No